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10/576,233	01/12/2007	Peter Mueller	1401A.006 (C10133/A-US)	7089
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EXAMINER NGUYEN, PHONG H				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,233

Applicant(s)

MUELLER ET AL.

Examiner

PHONG H. NGUYEN

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-27, 29-35 and 47-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-27, 29-35 and 47-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/23/2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to under 37 CFR 1.71, as being incomprehensible as to preclude a reasonable search of the prior art by the Examiner. For example, it is unclear how the means/gripper in claims 26 and 55 is driven by the food product and the conveying means simultaneously;

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 26, 49-53 and 55 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 26 and 55 call for the means/gripper being driven by the food product and the conveying means. It is unclear how it is possible since the means has its own motor.

4. Claim 55 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The original disclosure does not teach the food product being driven by one conveying belt.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 24, 26, 27, 29, 31-35 and 49-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the limitation "connecting a means to the end" in line 10. There is insufficient antecedent basis for the term "the end".

Claims 26 and 47 call for the means being driven by the food product block and the conveying means. However, the disclosure teaches the means being driven by its own motor. Furthermore, the expression "food product block by food product block" is confusing.

Regarding claim 29, the disclosure teaches the means being connected to the food product block by reversibly and force-locking OR interlocking OR material bonding but not any combination of the stated connecting methods.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 24, 26, 27 and 31-35 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/59689.

Regarding claims 24 and 26, WO 00/59689 teaches a method for simultaneously slicing at least two food product blocks 1 comprising:

feeding in parallel two food product blocks 1 to a blade 10;
inserting each of the two food product blocks 1 into a feed passage 21, wherein the two food product blocks are brought into contact with a limit stop 22;
conveying the two food product blocks 1 by a conveying means 38;
slicing first ends of the two food product blocks 1; and
connecting a means 36 to second ends of the two food product blocks 1.

See Figs. 1, 3 and 5.

It is to be noted that in the last two lines of claim 26, the means appears to be driven by its own motor but not by the food product block or/and the conveying means.

Regarding claim 27, see Fig. 1.

Regarding claim 31, means 36 being removed from the feed passage (going back to element 33) is best seen in Fig. 1.

Regarding claim 32, it is inherent that when the end of the food block reaches the blade, the connection between the food block and means 36 is broken.

Regarding claim 33, motor 37 for driving means 36 is best seen in Fig. 1.

Regarding claim 34, a conveying means 38 is best seen in Fig. 3.

Regarding claim 35, see Fig. 1.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 29 and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/59689 in view of FR 2 677 573.

Regarding claims 29 and 49, WO 00/59689 teaches the invention substantially as claimed except for a locking device for fastening the food product block to the means 36.

FR 2 677 573 teaches a locking device 22 for fastening the food product block to a means. See Fig. 1.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide a locking device as taught by FR 2 677 573 to the means 36 for fastening the food product block to the means.

Regarding claims 47 and 50, the means is driving by a conveying means 38 is best seen in Fig. 3.

Regarding claims 48 and 51, a conveying means 38 is best seen in Fig. 3.

11. Claims 24, 26, 27, 29, 31-35 and 47-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/59689 in view of Lindee et al. (6,935,215), herein Lindee.

Regarding claims 24, 26 and 55, WO 00/59689 teaches a method for simultaneously slicing at least two food product blocks 1 comprising:

feeding in parallel two food product blocks 1 to a blade 10;

inserting each of the two food product blocks 1 into a feed passage 21, wherein the two food product blocks are brought into contact with a limit stop 22;

slicing first ends of the two food product blocks 1; and

connecting a means 36 to second ends of the two food product blocks 1.

See Figs. 1, 3 and 5.

WO 00/59689 does not teach conveying the two food product blocks 1 by a conveying means 38.

Lindee teaches conveying food product block by conveying means (20, 22, 24, 26). See Fig. 1.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate the step of conveying the food blocks by a conveying means to convey the food product block to a cutting blade.

It is to be noted that the limitation of driving the gripper by using one conveyor belt, one food product block or both in claim 55 cannot be commented on at this time in view of 35 USC 112 issues.

Regarding claim 27, see Fig. 1 in WO 00/59689.

Regarding claim 31, means 36 being removed from the feed passage (going back to element 33) is best seen in Fig. 1 in WO 00/59689.

Regarding claim 32, it is inherent that when the end of the food block reaches the blade, the connection between the food block and means 36 is broken.

Regarding claim 33, motor 37 for driving means 36 is best seen in Fig. 1 in WO 00/59689.

Regarding claim 34, a conveying means is best seen in Fig. 1 in Lindee.

Regarding claim 35, see Fig. 1 in WO 00/59689.

Regarding claims 47 and 50, patentability of claims 47 and 50 cannot be commented on at this time in view of 35 USC 112 issues.

Regarding claim 48 and 51, when the means goes through the conveying means, the means engages with the conveying means.

Regarding claims 52-54, see Fig. 1 in Lindee.

Response to Arguments

12. Applicant's arguments with respect to claims 24, 26 and 55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHONG H. NGUYEN whose telephone number is (571)272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Timothy V. Eley/
Primary Examiner, Art Unit 3724

/Phong H Nguyen/
Examiner, Art Unit 3724
December 9, 2009